

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION

GRANGE INSURANCE COMPANY,	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION
v.	:	No. 3:22-CV-88 (CAR)
	:	
BENSON'S, INC., <i>et al.</i>	:	
	:	
Defendants.	:	
_____	:	

ORDER ON PLAINTIFF'S MOTIONS FOR VOLUNTARY DISMISSAL

Before the Court are Plaintiff Grange Insurance Company's Motions to Dismiss [Docs. 89, 90] its claims against Defendants Victory Foods LLC, Prime-Pak Foods Inc., Wilcorp, Inc., Smith Dairy Farms, Inc., Smith Land & Cattle Company Inc., Jeff Smith, and Leon Jones Feed and Grain, Inc. (collectively "Dismissed Defendants") without prejudice.

Plaintiff represents it circulated a proposed dismissal without prejudice to all parties and obtained the consent of all parties, except Defendant IsoNova Technologies, Inc ("IsoNova").¹ On March 13, 2023, IsoNova filed a notice of no objection to Plaintiff's Motion to Dismiss without prejudice.²

¹ See Plaintiff's Motions to Dismiss Parties, [Docs. 89, 90].

² IsoNova's Notice of No Objection, [Doc. 91].

The decision of whether to grant a voluntary dismissal pursuant to Rule 41(a)(2), Fed. R. Civ. P., falls within the sound discretion of the district court.³ "Generally speaking, a motion for voluntary dismissal should be granted unless the defendant will suffer clear legal prejudice other than the mere prospect of a second lawsuit."⁴ The Eleventh Circuit noted that the critical question is whether "the defendant [would] lose any substantial right by the dismissal."⁵ The Court must "weigh the relevant equities and do justice between the parties in each case, imposing such costs and attaching such conditions to the dismissal as are deemed appropriate."⁶

All seven of the Dismissed Defendants consented to Plaintiff's Motion for Voluntary Dismissal without prejudice. Thus, the Court concludes none of the Dismissed Defendants would lose any substantial right by the dismissal.

For the reasons discussed, Plaintiff's Motions [Docs. 89, 90] are **GRANTED**. Plaintiff's claims against the Dismissed Defendants are **DISMISSED without prejudice**. As a result of the dismissal, Defendants Smith Dairy Farms, Inc., Smith Land & Cattle Company Inc., and Jeff Smith's Motion to Dismiss [Doc. 61] is **MOOT**.

SO ORDERED, this 14th day of March, 2023.

s/ C. Ashley Royal
C. ASHLEY ROYAL, SENIOR JUDGE
UNITED STATES DISTRICT COURT

³ *Arias v. Cameron*, 776 F.3d 1262, 1268 (11th Cir. 2015).

⁴ *Id.* (citations omitted).

⁵ *Id.* at 1268-1269 (citing *Pontenberg v. Boston Scientific Corp.*, 252 F.3d 1253, 1255 (11th Cir. 2001) (per curiam)).

⁶ *Emergency Recovery, Inc. v. Hufnagle*, 861 F. App'x 355, 359 (11th Cir. 2021).